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Company*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

ALLEGIANT INSTITUTE INC., f/k/a/ Dr.  
Jaswinder Grover MD LTD., a Nevada  
corporation,

Plaintiff,

v.

OHIO SECURITY INSURANCE  
COMPANY, a foreign limited liability  
company; LIBERTY MUTUAL  
INSURANCE COMPANY, a foreign liability  
company,

Defendant.

Case No.:

**NOTICE OF REMOVAL TO THE  
UNITED STATES DISTRICT COURT,  
DISTRICT OF NEVADA**

**TO: THE HONORABLE JUDGES OF THE ABOVE-ENTITLED COURT**

Pursuant to 28 U.S.C §§ 1332, 1367(a), 1441(a) and 1446(a), Defendants Ohio Security Insurance Company ("Ohio") and Liberty Mutual Insurance Company ("Liberty Mutual") (collectively "Defendants"), hereby petitions the Court for removal of the action described below

1 from the District Court, Clark County, Nevada to this Court, and in support thereof, respectfully  
2 shows:

### 3 GENERAL ALLEGATIONS

4 1. On December 12, 2019 Defendant Ohio Security filed a complaint in the District  
5 Court, Clark County Nevada, as Case No. A-18-785518-C-C naming Jaswinder Singh Grover a/ka  
6 Jaswinder S. Grover and Nevada Spine Center as Defendants (“State Court Action”).

7 2. Jaswinder Singh Grover was served with a copy of the Summons and Complaint  
8 on December 12, 2018, through a process server.

9 3. Ohio Security filed an amended complaint on December 5, 2018 to name Allegiant  
10 Institute, Inc. (“Allegiant”) as the proper Defendant entity, in place of previously named entities.

11 4. Allegiant filed a counter-claim for breach of contract and unfair claim practices on  
12 January 23, 2019. The counter-claim was served on January 23, 2019<sup>1</sup>.

13 5. On February 15, 2015, the parties entered a stipulation whereby Ohio Security  
14 would dismiss its action without prejudice. Allegiant’s counter-claim would not be dismissed but  
15 would proceed as the operative complaint for the lawsuit. The parties stipulated to amend the  
16 caption to properly identify Allegiant as Plaintiff and Ohio Security Insurance Company and  
17 Liberty Mutual Insurance Company as Defendants. The stipulation was approved and entered by  
18 the Clark County District Court on February 14, 2019. The new and operative caption for this  
19 lawsuit is: Allegiant Institute Inc., f/k/a Dr. Jaswinder Grover v. Ohio Security Insurance and  
20 Liberty Mutual Insurance Company. A copy of the executed stipulation and order is attached as  
21 **Exhibit A.**

22 6. Under 28 U.S.C. § 1446(b) the 30-day time deadline for removal begins to run after  
23 receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth  
24 the claim for relief upon which such action or proceeding is based, or within 30 days after the  
25 service of summons upon the defendant if such initial pleading has then been filed in court and is  
26 not required to be served on the defendant, whichever period is shorter. 28 U.S.C. § 1446(b)(3) also

27  
28 <sup>1</sup> Liberty Mutual Insurance Company was also named as a defendant in the counter-claim.

1 permits removal to be filed within 30 days of an amended pleading, motion, order or other paper  
 2 for which may first be ascertained that the case is one which is or has become removeable.  
 3 Defendants file this instance notice of removal within the thirty (30) day deadlines prescribed by  
 4 28 U.S.C §1446.

5 7. Plaintiff alleges in its Complaint in the State Court Action that:

6 i. It was insured under a commercial insurance policy for Plaintiff's medical  
 7 offices and radiology clinics. Counter-Claim<sup>2</sup> ¶ 9.

8 ii. On March 2, 2016, Plaintiff renewed its policy to include several of  
 9 Plaintiff's business locations. *Id.* at ¶ 10-12.

10 iii. That the March 2016 insurance policy provided coverage for "Business  
 11 Income-Newly Acquired Locations" in the amount of \$250,000 "in any one occurrence for loss or  
 12 damage." *Id.* at ¶ 15.

13 iv. That on June 15, 2016 Plaintiff acquired a radiology clinic located at 8530W.  
 14 Sunset Rd., Suite 110 and 12, Las Vegas, Nevada 89113 (the "Newly Acquired Radiology Clinic")  
 15 *Id.* at ¶ 18.

16 v. That on or about June 17, 2016 a covered loss occurred at the Newly  
 17 Acquired Radiology Clinic, which caused damage to an MRI machine. *Id.* at ¶ 19.

18 vi. That Defendant Ohio Security accepted Plaintiff's claim for the MRI  
 19 machine loss and paid in excess of \$140,000 to repair it. *Id.* at ¶ 20.

20 vii. That in retaliation for the MRI machine loss claim, Defendant Ohio Security  
 21 retaliated by sending a Policy Change Endorsement that raised Plaintiff's premium for the same  
 22 policy period an additional \$31,207.00. *Id.* at ¶ 22.

23 viii. That on or about January 23, 2017 Plaintiff made a claim for loss of business  
 24 income related to the MRI machine loss. *Id.* at ¶ 25.

25  
 26  
 27  
 28 <sup>2</sup> Pursuant to the stipulation and order attached as Ex. A, the counter-claim is now the operative complaint.

ix. That on or about January 27, 2017, Defendant Ohio Security “unlawfully denied” the business income loss claim in relation for making the MRI machine loss claim. *Id.* at ¶ 27.

x. That Plaintiff has incurred a business loss from June 23, 2016 through July 17, 2016 in the amount of approximately \$170,000. *Id.* at ¶ 28.  
A copy of the counter-claim along with all other state court filings evidencing the proper case status is attached as **Exhibit B**.

8. Based on the allegations, Plaintiff asserts the following causes of action: (1) breach of contract; (2) tortious breach of contract; (3) breach of covenant of good faith and fair dealing; (4) unfair claims practices; (5) declaratory relief; and (6) attorney’s fees/special damages.

9. Plaintiff’s complaint expressly alleges damages owed under the Policy, including other damages. Counter-claim, at ¶ 28.

10. Assignment to this court is proper because the State Court Action was pending in the Eighth Judicial District Court in and for Clark County, Nevada. 28 U.S.C. § 1446(a).

### JURISDICTION

11. Under 28 U.S.C. §§ 1441 and 1446, defendants have a statutory right to remove a case from state court to the district and division of the United States District Court within which such state court action is pending where that case could have originally been filed in federal court. The grant of this right is authorized, in part, by Article III, Section 2 of the United States Constitution, which extends judicial power of the federal courts to controversies “between citizens of different states.” 28 U.S.C. § 1332.

12. Removal is proper in this case because this court has original jurisdiction of this action in which there is complete diversity of citizenship between Plaintiff and Defendants, and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00. See 28 U.S.C. § 1444.

### AMOUNT IN CONTROVERSY

13. While Defendants deny that Plaintiffs are entitled to any of the relief it seeks, it is clear that Plaintiff seeks to recover an amount in excess of \$75,000. Plaintiffs are seeking to recover

1 more than \$170,000 from a loss of business income claim that they contend was improperly denied.  
 2 Counter-claim, at ¶ 28. In addition, Plaintiffs have pled attorneys' fees as special damages and are  
 3 seeking punitive damages. *Id.* at pg. 15-16.

#### 4 **GEOGRAPHICAL DIVERSITY**

5 14. Defendant Ohio Security is a foreign corporation, incorporated in New Hampshire  
 6 with its principle place of business in Boston, Massachusetts.

7 15. Plaintiff Allegiant Institute Inc., is a Nevada corporation licensed under the laws of  
 8 the State of Nevada.

9 16. The citizenship of Defendants sued under fictitious names is disregarded. 28 U.S.C.  
 10 §1441(b)(1). However, Liberty Mutual Insurance Company is incorporated in Massachusetts and  
 11 its principle place of business is Boston, Massachusetts.

#### 13 **REMOVAL IS PROPER**

14 17 The State Court Action is pending in the District Court of Clark County, Nevada.  
 15 This court embraces Clark County. 28 U.S.C. § 108. This court is therefore the proper court to  
 16 which the action should be removed. 28 U.S.C. §§ 1441(a), and 1446(a).

17 18. This Notice of Removal is timely filed because it was filed not later than thirty  
 18 days after receipt of the counter-claim by Ohio Security, and is filed within one year of the filing  
 19 of the State Court Action. 28 U.S.C. § 1446(b).

20 19. Written notice of this removal is being served on all other parties, and Ohio  
 21 Security will timely file a Notice of Removed Action in District Court, Clark County, Nevada, in  
 22 the form attached at ***Exhibit C***.

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28 ///

1           20.     Ohio Security reserves the right to amend or supplement this Notice of Removal.

2           Dated this 22<sup>nd</sup> day of February 2019.

3                           FORAN GLENNON PALANDECH PONZI  
4                           & RUDLOFF PC

5                           By: /s/ Dylan Todd  
6                           Amy M. Samberg (NV Bar No. 10212)  
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12                          *Attorneys for Defendants Ohio Security*  
13                          *Insurance Company and Liberty Mutual*  
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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT, DISTRICT OF NEVADA** was served by the method indicated:

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).
- ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.
- ☒ **BY ELECTRONIC SERVICE:** submitted to the above-entitled Court for electronic service upon the Court's Service List for the above-referenced case.
- ☐ **BY EMAIL:** by emailing a PDF of the document listed above to the email addresses of the individual(s) listed below.

Jesse Sbaih & Associates, Ltd.  
Jesse M. Sbiah  
Ines Olevic-Seleh  
The District at Green Valley Ranch  
170 South Green Valley Parkway  
Suite 280  
Henderson, NV 89012

*Attorneys for Defendant/Counter-  
Claimant Allegiant Institute Inc., f/k/a  
Dr. Jaswinder Grover MD LTD*

Dated: February 22, 2019.

/s/ Rita Tuttle  
An Employee of Foran Glennon